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PATENT  
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On: September 12, 2002

TOWNSEND and TOWNSEND and CREW LLP

By:

Rosemarie L. Celli

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Schenk et al.

Application No.: 09/580,018

Filed: May 26, 2000

For: PREVENTION AND TREATMENT  
OF AMYLOIDOGENIC DISEASE

Examiner: Turner, Sharon

Art Unit: 1647

RESPONSE TO RESTRICTION &  
ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

A petition to extend the time of response to the Election of Species Requirement mailed March 12, 2002 from April 12, 2002 to September 12, 2002 is submitted herewith. Applicants file this paper in response to the Restriction/Election of Species Requirement mailed March 12, 2002. Claims 1-68 are pending, claims 1-41 and 44-46, claims 42-43, and 47-68 having been withdrawn from consideration.

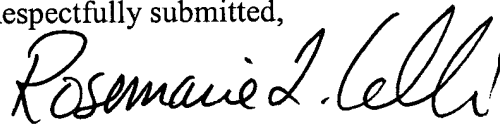
Applicants elects Group I, claims 1-41 and 44-46. Applicants believe the Examiner intended to include claim 43 in Group II.

Applicants elects the following species: 1C, humanized antibodies; 2B, monoclonal antibodies; 3A, IgG1 antibodies; and 4C, 1-7 of A $\beta$ . Claims 1-22, 24, 27-37, 40-41, and 44-46 read on species 1C, humanized antibodies. Claims 1-26 and 28-41, and 44-46 read on species 2B, monoclonal antibodies. Claims 1-30, 32-41, and 44-46 read on species 3A, IgG1 antibodies. Claims 1-7, 10, 14-17, 19-41, and 44-46 read on species 4C, 1-7 of A $\beta$ . Applicant acknowledges claim 1 is currently generic.

The election of species requirement is respectfully traversed on the basis that although the designated species may be patentably distinct they are not mutually exclusive. MPEP 806.04(f) specifies that "[c]laims to be restricted to different species must be mutually exclusive." Here, it is noted that the claims specify that an antibody binds to a particular species of A $\beta$  but do not in general require that the antibody be raised against the same species of A $\beta$  to which it binds. Therefore, antibodies that bind to A $\beta$ 1-7 (as recited claim 10) include antibodies that bind to A $\beta$ 1-6, for example, as recited in claim 8 or antibodies that bind to A $\beta$ 3-6, as recited in claim 11. Because the election of species requirement requires election between nonmutually exclusive species, it is submitted that it should be withdrawn.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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